2019 IL App (3d) 160638-U

Order filed March 13, 2019

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

2019

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of the 12th Judicial Circuit, Will County, Illinois,
Plaintiff-Appellee,	)	
v.	)	Appeal No. 3-16-0638 Circuit No. 16-CM-421
MAURICIO Q. SANTANDER,	)	Honorable Edward A. Burmila Jr.,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE WRIGHT delivered the judgment of the court.
Justices Lytton and O'Brien concurred in the judgment.

ORDER

¶ 1 *Held*: The State presented sufficient evidence to prove beyond a reasonable doubt that defendant committed the offense of domestic battery. Additionally, the evidence at trial proved defendant did not act in self-defense.

¶ 2 Defendant, Mauricio Q. Santander, appeals his conviction and sentence for domestic battery. Defendant contends the State: (1) presented insufficient evidence to prove his guilt beyond a reasonable doubt; and (2) failed to disprove that he acted in self-defense. We affirm.

¶ 3 I. BACKGROUND

¶ 4 The State charged defendant with domestic battery (720 ILCS 5/12-3.2(a)(2) (West 2016)). The charges alleged defendant committed the offense by knowingly, without legal justification, made physical contact of an insulting or provoking nature with the victim, Daniela Gutierrez, a household member, in that defendant threw Gutierrez to the ground.

¶ 5 At the bench trial, Gutierrez testified that she and defendant had one daughter, D.G. Gutierrez and defendant were divorced. Gutierrez lived with their daughter and the two shared a bedroom. Defendant did not live at the home. On February 9, 2016, Gutierrez arrived home in the evening. Defendant was in her bedroom with D.G. doing D.G.'s homework in her bedroom. Gutierrez told defendant that she was taking D.G. to church. Gutierrez took D.G. into the bathroom to do D.G.'s hair. Defendant followed them into the bathroom. Defendant raised his voice and began telling Gutierrez that she was always making "stupid[ ] decisions."

¶ 6 Gutierrez returned to her bedroom, and defendant followed her. Defendant continued to yell at Gutierrez and told her she would not be taking D.G. to church. Gutierrez tried to ignore defendant, and defendant touched her shoulder. Gutierrez pushed defendant back onto the bed which was about four inches from defendant. According to Gutierrez, she pushed defendant to "get him out of [her] face because he was like screaming right here." In response, defendant grabbed Gutierrez with both of his hands and knocked her to the floor. D.G. was sitting on the bed when this occurred. Gutierrez screamed for her cousin, Jorge. When Jorge entered the room, Gutierrez left the room and called the police.

¶ 7 Officer Joshua Wyatt was the responding officer. He testified he did not observe any visible injuries on Gutierrez. He spoke to Gutierrez and defendant at the scene. Defendant told

Wyatt that during the altercation he grabbed Gutierrez by both arms "and took her to the ground."

¶ 8 D.G. testified that she was seven years old at the time of the incident. On that day, she was doing homework with defendant in her bedroom. Gutierrez entered the room and began getting ready to go to church. D.G. and Gutierrez went to the bathroom to do D.G.'s hair. Defendant followed them to the bathroom. The three then returned to the bedroom and Gutierrez tried to put D.G.'s jacket on her. However, Gutierrez did not finish, D.G. stated, "I don't remember what my dad did. I think he crossed her." D.G. ran from the room because defendant was "throwing," "grabbing" and "crashing" Gutierrez. D.G. saw Gutierrez on the floor.

¶ 9 Defendant testified on his own behalf. Defendant explained that during the argument he put his hand on Gutierrez's shoulder to calm her down. Gutierrez responded by pushing defendant away from her. Gutierrez continued to push defendant, but she was not injuring defendant. Defendant stated that Gutierrez had scared him in the past, but he was not scared during the incident. Defendant grabbed Gutierrez's arms near the biceps to calm her down. Defendant spoke with Wyatt and told Wyatt that Gutierrez may have fallen to the ground during the incident. However, he denied knocking Gutierrez to the ground. Defendant stated that he felt the need to defend himself because in the past, Gutierrez had acted similarly. Defendant never called the police during the past incidents.

¶ 10 Ultimately, the circuit court found defendant guilty. The court explained,

> "The testimony is in conflict exactly how the physical confrontation occurred, but I believe the only completely truthful witness who testified was [D.G.] who said that not only did she hear the noise or that she saw daddy grab

mommy and that she saw the mother on the ground, and the defendant is convicted of the offense of domestic battery."

The court sentenced defendant to 18 months' of conditional discharge.

¶ 11 II. ANALYSIS

¶ 12 On appeal, defendant challenges the sufficiency of the evidence as to the offense of domestic battery, as well as his claim of self-defense. We discuss each issue in turn.

¶ 13 Defendant first contends the State failed to prove him guilty beyond a reasonable doubt of domestic battery. Upon review, we find a reasonable trier of fact, viewing the evidence in the light most favorable to the State, could have found defendant committed the act of domestic battery by throwing Gutierrez to the ground.

¶ 14 In a challenge to the sufficiency of the evidence, it is not the function of this court to retry the defendant. *People v. Collins*, 106 Ill. 2d 237, 261 (1985). Instead, " 'the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.' " (Emphasis in original.) *Id.* (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). "[I]n a bench trial, it is for the trial judge, sitting as the trier of fact, to determine the credibility of witnesses, to weigh evidence and draw reasonable inferences therefrom, and to resolve any conflicts in the evidence." *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009).

¶ 15 To prove defendant committed the offense of domestic battery, the State must establish that defendant knowingly, without legal justification by any means, made physical contact of an insulting or provoking nature with any family or household member. 720 ILCS 5/12-3.2(a)(2) (West 2016). Here, defendant admitted to Officer Wyatt that he grabbed Gutierrez and took her to the ground. In addition, D.G. testified that Gutierrez and defendant were arguing and

defendant was "throwing" Gutierrez. Significantly, the circuit court found D.G. to be a credible witness. *People v. Gray*, 2017 IL 120958, ¶ 36 (the testimony of a single witness is sufficient to sustain a conviction if it is positive and credible).

¶ 16 According to defendant, his conscious purpose was not to insult or provoke his wife. Instead, defendant asserts that he was reacting to Gutierrez's provocation when she pushed him. By its very nature, the act of throwing Gutierrez to the ground is physical contact of an insulting or provoking nature. More importantly, the circuit court found defendant not to be a credible witness, and necessarily rejected defendant's justification for his conduct. We see no reason to disturb the trial court's finding. *Siguenza-Brito*, 235 Ill. 2d at 228.

¶ 17 Next, defendant contends he was not proved guilty of domestic battery beyond a reasonable doubt because the State failed to disprove that he acted in self-defense. To raise a claim of self-defense, a defendant must present evidence supporting each of the following elements which justify the use of force in defense of a person: (1) force had been threatened against defendant; (2) defendant was not the aggressor; (3) the danger of harm was imminent; (4) the force threatened was unlawful; (5) defendant actually believed that a danger existed, that the use of force was necessary to avert the danger, and that the kind and amount of force actually used was necessary; and (6) defendant's beliefs were reasonable. See *People v. Jeffries*, 164 Ill. 2d 104, 127-28 (1995). Once a defendant raises the affirmative defense of self-defense, the burden shifts to the State to prove beyond a reasonable doubt that defendant did not act in self-defense. *People v. Lee*, 213 Ill. 2d 218, 225 (2004). The State satisfies this burden if it negates any of the six elements beyond a reasonable doubt. *Id*.

¶ 18 Viewing the evidence in the light most favorable to the State, we conclude that a rational trier of fact could have found beyond a reasonable doubt that defendant did not act in self-

defense. Despite testifying that he had been afraid of Gutierrez for past altercations, defendant stated that he was not scared or injured during the incident. Additionally, no danger of imminent harm existed as defendant had grabbed Gutierrez's arms to stop her from pushing him. Although defendant claims his testimony was unrebutted regarding past incidents in which Gutierrez had physically attacked him, the circuit court was under no obligation to believe defendant's unsupported testimony. *People v. Ferguson*, 204 Ill. App. 3d 146, 151 (1990). Accordingly, the evidence at trial was sufficient to negate that use of force was necessary to avert the danger, and that the kind and amount of force actually used was necessary.

¶ 19 III. CONCLUSION

¶ 20 The judgment of the circuit court of Will County is affirmed.

¶ 21 Affirmed.